

REMARKS

Claims 1-20 are pending in the application.

Minor Changes to Specification and Claims

Minor changes have been made to the specification and pending claims, without affecting the scope thereof, to place them in better form for U.S. practice.

Further, the Abstract of the Disclosure has been amended such that it contains 150 words or less.

An Embodiment of the Present Invention

One of the embodiments of the present invention is directed to a data communication device having a line state monitoring unit that detects a line state relating to transmission quality in a communication line and producing line state information indicating the line state, and a transmission control unit, having a plurality of operation modes corresponding to a plurality of error tolerance levels different from each other, for selecting a specific operation mode from the operation modes according to the line state information produced by the line state monitoring unit.

The transmission control unit performs transmission control for continuously transmitting data regardless of the line state detected by the line state monitoring unit, which is planned to

be sent out to the communication line, according to the specific operation mode.

Claim Rejections - 35 U.S.C. § 102

Claims 1-5, 7-13, and 17-20 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Shaffer '490 (USP 5,995,490). This rejection is respectfully traversed.

Shaffer '490 is directed to a system for integrating video and data transfers in a multimedia session. As shown in Fig. 1, Shaffer '490, a first multimedia-capable system 10 and a second multimedia-capable system 16 connected to one another by one or more links 18 of a public switched telephone network 22.

As stated in col. 4, lines 25-38, each of the first and second systems 10, 16 includes a regulating device 36 and 38 used to control execution of the file transfer from file transfer devices 32 and 34. The regulation by the regulation device is based upon video quality of service (QoS) monitored by QoS monitors 40 and 42, which are used in the determination of whether the video QoS has degraded to a level in which regulation of data transfer must be implemented.

As stated in col. 6, lines 29-44, if the present-time video QoS is below a second designated level, a level selected by a user when a user-initiated data transfer is necessary, the data transfer process is controlled to return the present-time video

QoS to the second level. This is done either by temporarily interrupting the data transfer or by sending a "suspend-until-restart-transfer" message to interrupt the data transfer until it is determined that a restart of the data transfer will not degrade the video QoS below the second designated level.

In other words, in Shaffer '490, the first and second systems 10, 16 interrupt

Systems 10 and 16 suspend data transfer when a line state deteriorates and thus does not perform data transmission control for "continuously transmitting data regardless of the line state detected by the line state monitoring unit," as recited in claim 1. Accordingly, Shaffer '490 does not disclose or even suggest the "transmission control unit" as recited in claim 1.

Claims 2-5 and 6-8, dependent on claim 1, are allowable at least for their dependency upon claim 1.

Claim 9 is allowable at least for the similar reasons as stated in the foregoing with respect to claim 1. More specifically, Shaffer '490 does not perform data transmission control for "continuously transmitting data regardless of the line state detected by the line state monitoring unit," as recited in claim 9. Accordingly, Shaffer '490 does not disclose or even suggest the "transmission control unit" as recited in claim 9.

Claims 10-13 and 17-20, variously dependent on claim 1, are allowable at least for their dependency upon claim 9.

The Examiner is respectfully requested to reconsider and withdraw this art grounds of rejection.

Claim Rejections - 35 U.S.C. § 103

Claims 6 and 14-16 have been rejected under 35 U.S.C. § 103(a) as being unpatentable of over Shaffer '490 in view of Shaffer '668 (USP 5,898,668). This rejection is respectfully traversed.

Claim 6, dependent on claim 1, is allowable at least for its dependency upon claim 1.

Claims 14-16, variously dependent on claim 9, are allowable at least for their dependency upon claim 9.

Conclusion

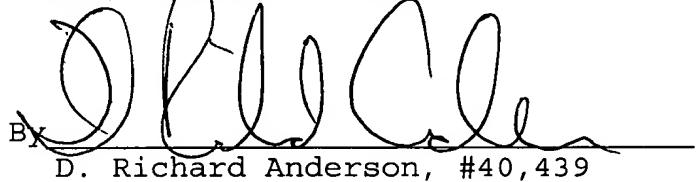
Accordingly, in view of the above amendments and remarks, reconsideration of the rejections and objections, and allowance of the pending claims are earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Maki Hatsumi (Reg. No. 40,417) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP



D. Richard Anderson, #40,439

P.O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000

DRA:MH/mh:pjh
1163-0346P